

REMARKS

Claims 1-5, 7-17, 19-49, and 51-58 are pending in the subject application. Claims 1, 49 and 57 are amended. Applicants submit that the amendments herein introduce no new matter, support therefore being found throughout the application and drawings as originally filed.

The Applicants appreciate the Examiner's thorough examination of the subject application and request reconsideration based on the amendments and the following remarks.

35 U.S.C. §103 Rejections

Claims 1-3, 5, 7-17, 19-49, and 51-58 are rejected under 35 U.S.C. §§103(a) over U.S. Patent No. 4,175,704 to Cohen (hereinafter "Cohen") and U.S. Patent No. 5,059,188 to Goddard (hereinafter "Goddard"). Applicants respectfully traverse.

The Office acknowledge that Cohen does not teach or suggest delivery of a spray or mist with maximum dimensions (with respect to claims 1 and 57) or in an elliptical shape (with respect to claim 2) (pages 3 and 4 of the Office action).

The Office asserts that Goddard "teaches a device for delivering substances to the eye that delivers the substance from nozzle hole opening with a diameter of 1-2 mm as set forth in col. 3, lines 23-24", and that Goddard "teaches a device for delivering substances to the eye that delivers the substance from nozzle hole opening in an elliptical shape as set forth in figure 4".

Applicants respectfully disagree.

Goddard describes a nozzle dropper that is inverted and squeezed so as to dispense a drop of fluid 42 through the opening 22 (see Figs. 4 and 7). The size of the opening 22 is described as being 1-2 mm in diameter. However, this has absolutely

nothing to do with Applicants' claimed subject matter which is a delivery mechanism configured such that substance is delivered to the eye in the form of a spray or mist in a substantially horizontal direction wherein the outlet port is sized to deliver the spray or mist to the eye with a maximum height of 15 mm and a maximum width of 30 mm when the outlet port is positioned up to about 30 cm away from the eye. Goddard only describes delivery of a drop of liquid through an opening and down into the eye by gravity – Goddard does not teach or suggest designing a spray nozzle so as to deliver a spray or mist in a desired way. Thus, even if Goddard and Cohen were combined as proposed, Applicants' claimed invention still would not be taught or suggested.

Further, with respect to Fig. 4 pointed to by the Office, according to Goddard an eye dropper attachment 30, which is a flexible piece of material, is attached to the end of the eye dropper to place against the face for proper positioning of the dropper so that the drop of liquid can be delivered to the eye. The drop of liquid from the nozzle dropper passes through the eye dropper attachment 30 through an outlet 40 in the attachment 30. The design set out in Fig. 4 does not describe nor is it capable of delivery of a substance in an elliptical shape – the device only releases and delivers a drop of liquid. The shape of the large outlet 40 does not have any impact on the shape of the drop released, as is clearly shown by the drop 42 in Fig. 4 which never even comes into contact with the walls of the outlet 40 but, rather, passes directly from the nozzle dropper into the eye. Thus, nowhere does Goddard teach or suggest delivery of a drop as anything other than a drop of liquid or in any particular shape.

In view thereof, it is submitted that claims 1, 2, 57, and all claims dependent therefrom are clearly patentable over Cohen and Goddard. Reconsideration and withdrawal of the rejection is respectfully requested.

CONCLUSION

It is respectfully submitted that the subject application is in a condition for allowance. Early and favorable action is requested. If for any reason a fee is required,

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a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge Deposit Account No. 04-1105. The Examiner is invited to contact applicant's undersigned representative by telephone at the number listed below to discuss any outstanding issues.

Respectfully submitted,

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